IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 22009 of 1995

Between:

S.Narendra Reddy S/o.Ramachandra Reddy,aged about 33 years,
R/o.Tirupathi

PETITIONER

AND

1 Government of A.P Rep.by its Secretary,Transport,Roads and Buildings
(Tr.VI.II) Dept, Secretariat
Hyderabad.
2 Land Acquisition Officer/RDO
Chandragiri at Tirupati **RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, in the nature of Writ of Mandamus or any other appropriate Writ, direction or order declaring the Notification under Sec.4 (1) of the Land Acquisition Act, 1894 dated 17-7-1988 approved in G.O.Rt.No.509,TR & B (TR.VI-L) Dept, dated-8-6-1988 and the declaration made under Sec.6 in G.O.Rt.No.270, TR&B (TR.II) Department, dt:7-4-1995 in so far as it relates to R.S.No.623/1D of an extent of Ac.1-54 cents and the consequential Form-7 Notice issued under Sections 9(3) and 10 of the Land Acquisition Act in Proceedings Roc.No.F/7093/82, dated 16-6-1995 by the Land Acquisition Officer,Chandragiri at Tirupathi, the 2nd respondent as illegal and void.

Counsel for the Petitioner: MR.P.KAMALAKAR

Counsel for the Respondents : GP FOR LAND ACQUISITION

The Court made the following:

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ORDER:

The present Writ Petition has been filed for quashing the notification under Section 4(1) of the Land Acquisition Act, 1894 dated 17-7-1988 and followed by the declaration made under Section 6 of the Land Acquisition Act in G.O.Rt.No.270, TR. & B (Tr.II) Department, dated 7-4-1995 in so far as it relates to R.S.No.623/ID of an extent of Ac.1.54 cents and consequential Form-7 Notice issued under Sections 9(3) and 10 of the Land Acquisition Act in Proceedings Roc.No.F/7093/82, dated 16-6-1995 by the Land Acquisition Officer and Revenue Divisional Officer,Chandragiri at Tirupati, the 2nd respondent as illegal and void.

It is contended by the learned Counsel for the petitioner that at the first instance, a writ petition in W.P.No.13631 of 1988 has been filed and this Court by an interim order dated 8-9-1988 stayed all further proceedings and same was continued. On 22-9-1993, W.P.No.13631 of 1988, and W.P.No.938 of 1990 and other writ petitions were allowed by quashing both Section 4(1) notification and Section 6 declaration. It is also further contended that on review petitions filed by the APSRTC in Rev.WPMP.No.21085 and 21086 of 1993, this Court by order dated 15-4-1994 reviewed the order dated 22-2-1993 and quashed the declaration under Section 6 and maintained the notification under Section 4.

Thereafter, a fresh (Section 6) declaration approved in G.O.Rt.No.270, TR.B. (TR.II) Department, dated 7-4-1995 and has been published in Andhra Jyothi Telugu Daily on 18-4-1995 without mentioning the date of the G.O. and same has been questioned on the ground that the declaration was made beyond the period of one

year and not in conformity with the Proviso to Sub Clause 2 of Section 6. The learned counsel further argued that the declaration, which has been issued, ought to have been issued within a period of one year from the date of the original declaration and the publication of Section 6 declaration is beyond the period of one year.

A counter affidavit has been filed by the 2nd respondent stating that the writ petitioner has entered into agreement with one Sri N.Krishmachari for the purchase of Ac.1-54 cents in R.S.No.623/ID of Tirupati Village on 24-01-1986 cannot restrain the Land Acquisition Officer and Revenue Divisional Officer, Tirupati to implement the provisions of the Land Acquisition Act in acquisition of land in question and since the acquisition is for a genuine public purpose, the petitioner' arrangements and agreements cannot stall the proceedings of the Land Acquisition Officer when it is in conformity with the law. It is stated that draft declaration under Section 6 of the Land Acquisition Act was approved in G.O.Rt.No.270, Tr. R&B (Tr.II) Department dated 7-4-1995 and published in Andhra Jyothi Telugu Daily on 18-04-1995. It is also further stated that Form No.7 under Section 9(3) and 10 of the Land Acquisition Act was served on the petitioner which act is in conformity with the provisions of the Land Acquisition Act. It is also stated that the contention of the Petitioner that both notifications issued under Sections 4(1) and 6 of the Act connected with the acquisition of Land for the expansion of APSRTC Bus Station Complex at Tirupati which was finally ended with upholding of validity of notification under Section 4 (1) and quashing declaration under Section 6 of the Land Acquisition Act as per the Orders dated 15-4-1994 of this Court in Rev.WPMP Nos.21085/93 and 21086 of 1993 . In pursuance of the above directions of the this Court, Draft Declaration was submitted to the Government and the same was approved and published in the Gazette dated 8.4.1995 which is well within the time stipulation of one year period from the date of publication of declaration under Section 4(1) after having excluded the stay period covered by this Court orders ever since 1988 till the orders of this Court dated 15-4-1994.The prayer of the Writ Petition to stay all further proceedings in pursuance of the Form 7 Notice issued under Section 9(3) and 10 of the Land Acquisition Act issued in ROC.F/7093/82 dated 16-06-1995 by the Land Acquisition Officer and Revenue Divisional Officer, Tirupati, cannot be tenable since the L.A. proceedings were initiated way back in the year 1988 for a genuine public purpose i.e. expansion of APSRTC Bus Station Complex at Tirupati town which has a

special entity as a world wide acclaimed pilgrim place attracting lakhs and lakhs of people to whom transportation is a must which is being catered by the APSRTC and as such, acquisition of land for such a genuine purpose cannot be sacrificed at the cost of a single individual. Therefore, the land Acquisition Officer is going ahead passing award as per the provisions of the Act. It is also further stated that the prayer for declaring the draft declaration as illegal and void needs no consideration since the notification under Section 4(1) of the Land Acquisition Act dated 7-7-1988 was upheld by this Court followed by declaration under Section 6 of the Land Acquisition Act duly approved by the Government in G.O.Rt.No.270 Tr. R & B (Tr.II) Department dated 7-4-1995 and consequential issue of notice in Form-7 as per the provisions of Section 9(3) and 10 of the Land Acquisition Act. Since every action of the Land Acquisition Officer and Revenue Divisional Officer, Tirupati, is in conformity with the provisions of the Land Acquisition Act the writ petition is not maintainable, devoid of merits and is liable to be dismissed.

The facts as contended itself reveal that an earlier occasion, this Court by order dated 22-9-1993 has quashed Section 4(1) notification and also Section 6 declaration dated 8-6-1988 by allowing the W.P. No.13631 of 1992 and batch and the interim stay continued for a period of nearly seven years. But however, this Court has allowed the review petitions filed by APSRTC on 15-4-1994 and thereafter, a declaration has been issued on 18-4-1995, therefore, it is to be held that the issuance of Section 6 declaration is within a period from the date of passing of review order on 15-4-1995. Even the Proviso to Sub Clause(ii) of Section 6 of Land Acquisition Act which reads as follows:

> *Provided further, that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company or wholly or partly out of public revenues or some fund controlled or managed by a local authority.*
>
> *Explanation 1: In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under Section 4, Sub Section (1) is stayed by an order of a Court shall be excluded.*
>
> *Explanation 2:Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or*

controlled by the State, such compensation shall be deemed to be compensation paid out of public revenues.

As per the explanations 1 and 2 and the Proviso to Sub Clause (ii) of Section 6 of Land Acquisition Act, it was observed that the interim stay was obtained and the same was continued for a period of seven years right from 1988 till the date of the disposal of review petitions on 15-04-1994 and that period has to be excluded in computation. Therefore, for a period of seven years the proceedings were stayed by this Court and the same has to be excluded. It is also further observed that the order of review petitions came to be passed on 15-4-1994 and subsequently .a fresh Section 6 declaration has been issued on

7-4-1995. Therefore, the said Section 6 declaration has been issued within a period of one year i.e. 11 months and 23 days.

The learned counsel for the petitioner relied on a decision in Padma Sundara Rao Vs. State of Tamil Nadu, (2002) 3 Supreme Court Cases 533 in support of his contention. The Apex Court has observed that:

A fresh Section 6 declaration must be issued within the same limitation period prescribed under the first proviso and that period cannot be construed to commence from the date of receipt of the order of the Court quashing the declaration in view of the clear language of the Proviso. It is also observed by the Apex Court that the decision shall operate prospectively.

Even so, the apex Court observed, it will not apply to the particular circumstances of the case on hand. In this case, it is observed that APSRTC filed review petitions and this Court has allowed the review petitions on 15-4-1994 and Section 6 declaration has been issued within a period of one year. Therefore, this Writ Petition needs no interference and same is liable to be dismissed.

Under the above circumstances, I do not find any merits in this Writ Petition and the same is, accordingly, dismissed. No costs.

07-10-2004

Stp

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Transport Roads and Buildings,Government of A.P .,
(Tr.VI.II) Dept, Secretariat Hyderabad.
2 Land Acquisition Officer/RDO
Chandragiri at Tirupati

3.2CCs to G.P. for Land Acquisition, High Court of

A.P.,Hyderabad.(OUT).

4.2CD copies

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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